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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
EXPEDITED RCRA SETTLEMENT AGREEMENT**

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Docket No. RCRA-07-2001-0012

Inspection Date: October 25, 2000

Feeler Lumber Company (Respondent), violated the standards applicable to wood treatment facilities pursuant to Section 3005 of the Solid Waste Disposal Act, 42 United States Code (U.S.C.) § 6925, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, and Mo. Rev. Stat. § 260.390.1(1)(2000) as noted on the attached FINDINGS AND ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

The parties are authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 3008 of RCRA, 42 U.S.C. § 6928. The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$0, based upon Respondent's inability to pay. This settlement is subject to the following terms and conditions:

EPA finds the Respondent's conduct is subject to Section 3005 of RCRA and Mo. Rev. Stat. § 260.390.1(1)(2000). For purposes of this Agreement, Respondent admits it is subject to Section 3005 and RSMo. § 260.390.1(1)(2000) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not

contest the Findings, and waives any objections it may have to EPA's jurisdiction. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it is subject to the standards applicable to woodtreaters and that the violations are being corrected.

#### **I. Respondent's Actions to Return to Compliance with the Hazardous Waste Regulations**

Respondent agrees, as a generator of hazardous waste subject to the requirements of 40 Code of Federal Regulations (C.F.R.) Parts 260-279; Mo. Rev. Stat. §§ 260.350 through 260.434 and 10 Code of State Regulations (CSR) Division 25, to take the following actions within the periods below:

(a) Respondent shall immediately cease all releases of the pentachlorophenol wood treatment preservative product and wastes, including drippage, waste waters and vacuum pump exhaust outside of the treatment unit in accordance with 10 CSR 25-7.265(1) and 10 CSR 25-7.265(2), referencing 40 C.F.R. § 265.31. Within thirty (30) days of the effective date of this Agreement, Respondent shall submit a certification and a detailed description of how Respondent has changed its operation and processes to cease all releases of pentachlorophenol wood treatment preservative product and wastes.

(b) Respondent shall immediately cease disposing in the general trash all pentachlorophenol (PCP)-contaminated scrap banding, aprons, and respirator cartridges pending completion of the hazardous waste determination for these wastes required by paragraph (e) below.

(c) Respondent shall immediately cease burning F032 treatment process residues, gloves, aprons, and respirator cartridges on-site and disposing of the resulting ash in a sanitary

landfill. All F032 treatment residues will be disposed of in accordance with paragraph (h) below.

(d) Respondent shall provide written notice to EPA at least thirty (30) days prior to resuming wood treating operations at the facility.

(e) Within thirty (30) days of the effective date of this Agreement, Respondent shall make a hazardous waste determination in accordance with 10 CSR 25-5.262, referencing 40 C.F.R. § 262.11, on all solid waste generated by Respondent. Solid waste streams generated at wood treatment facilities include but are not limited to: sludge, waste preservative, contaminated soils, wood chips, splinters, sand, sawdust, banding, gloves, waste water, storm water, vacuum pump exhaust and personal protective equipment, etc. Within seven (7) days of making such a determination, Respondent shall submit to EPA documentation demonstrating that the determination has been performed on each waste stream. Each determination shall include documentation of the following:

1. A description of the process that generated the waste;
2. A determination of whether or not the waste has been excluded from regulation under 40 C.F.R. Part 261;
3. A determination of whether or not the waste has been listed in Subpart D of 40 C.F.R. Part 261; and
4. A determination of whether or not the waste is identified in 40 C.F.R. Part 261, Subpart C. To determine whether the waste fails any of the characteristics in Subpart C, the waste may need to be analyzed using the procedure set forth in Subpart C of 40 C.F.R. Part 261, or by applying knowledge of the waste characteristics based upon the material or processes used. If knowledge of the process is used, please provide a detailed explanation

regarding the basis for this knowledge and your reasoning.

(f) Within sixty (60) days of the effective date of this Agreement, Respondent shall determine the facility's generator status based on the amount of hazardous waste generated in a calendar month or accumulated on-site at any one time. Respondent shall immediately manage the hazardous waste in accordance with 10 CSR 25, based on the facility's generator status. Within seven (7) days of ascertaining the facility's generator status, Respondent shall submit to EPA such documentation showing the determination has been performed.

(g) Within sixty (60) days of the effective date of this Agreement, Respondent shall submit to EPA documentation showing that the facility has registered with the Missouri Department of Natural Resources as a generator of hazardous waste in accordance with 10 CSR 25-5.262(2)(A)1.A.

(h) Within sixty (60) days of the effective date of this Agreement, Respondent shall ship off-site all hazardous wastes that have been stored at the facility in excess of the time allowed based on Respondent's generator status. All hazardous wastes shall be shipped to a permitted hazardous waste treatment, storage and/or disposal facility. Respondent shall submit to EPA a copy of the manifest and Land Disposal Restriction notice forms within thirty (30) days of each off-site shipment.

(i) For a period of one (1) year following the effective date of this Agreement, Respondent shall submit to EPA copies of all manifests and Land Disposal Restriction notice forms within thirty (30) days of each shipment of hazardous waste from the facility.

(j) If Respondent has ceased using the tanks and retorts for wood treatment at the facility for more than ninety (90) days, any material remaining in the tank and retort becomes

subject to regulation under RCRA pursuant to 40 C.F.R. 261.4(c), incorporated by reference at 10 CSR 25-4.261, and must be shipped off-site to a permitted hazardous waste treatment, storage and/or disposal facility in accordance with the facility's generator status prior to resuming operations. Respondent shall submit to EPA a copy of the manifest and Land Disposal Restriction notice form(s) within thirty (30) days of each off-site shipment.

(k) Within ninety (90) days of the effective date of this Agreement, Respondent shall submit to EPA a certification and a detailed description of how Respondent is conducting all wood treating operations at the facility in compliance with the hazardous waste regulations found at 10 CSR 25, 40 C.F.R. § 262.34 and 40 C.F.R. Part 265 Subpart W, based on Respondent's generator status. (An explanation of these regulations can be found in the enclosed guidance document, "Wood Preserving Resource Conservation and Recovery Act Compliance Guide", June 1996.)

## **II. Site Characterization and Clean-Up**

(a) *Site Characterization Work Plan and Report.* Respondent shall submit a Site Characterization Work Plan for EPA review and approval, in accordance with the schedule in Appendix I. The Site Characterization Work Plan, as more fully described in Appendix II, shall include provisions for systematically sampling the entire Site, with specific attention to those areas where pentachlorophenol contamination is likely to be found based on past practices at the facility, including but not limited to the area on the northeast side of the treatment building and the on-site drinking well. Upon EPA approval of this Work Plan, Respondent shall implement the Work Plan in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Site Characterization Report, in accordance with

the schedule in Appendix I.

Based upon the information provided in the Site Characterization Report, and other information available to EPA, EPA will select a clean-up action or actions for the facility. EPA will provide written notice to Respondent of the clean-up actions and any performance standards and clean-up levels that are selected by EPA.

(b) *Clean-up Action Work Plan and Report.* Respondent shall submit a Clean-up Action Work Plan for EPA review and approval, in accordance with the schedule in Appendix I. The Clean-up Action Work Plan, as more fully described in Appendix II, shall describe the procedures for conducting the clean-up actions as selected by EPA. Upon EPA approval of this Work Plan, Respondent shall implement the Work Plan in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Clean-up Action Report, in accordance with the schedule in Appendix I.

Respondent shall submit all documents required to be submitted pursuant to this Agreement, unless otherwise specified herein, to James Aycock, Environmental Scientist, ARTD/RESP, U.S. EPA Region VII, 901 North 5<sup>th</sup> Street, Kansas City, KS. 66101.

After all compliance and clean up activities have been completed to EPA's satisfaction, EPA will take no further civil action against the Respondent for the specific violations of Section 3005 of RCRA and RSMo. § 260.390.1(1)(2000) described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present or future violations by the Respondent of Section 3005 of RCRA or of any other federal or state statute or regulation. By its signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
FINDINGS AND ALLEGED VIOLATIONS FORM**

Docket No. RCRA-07-2001-0012

Inspection Date: October 25, 2000

Feeler Lumber Company, Vienna, Missouri, (Respondent) was subject to the requirements and found to be in violation of Section 3005 of the Solid Waste Disposal Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 ("RCRA"), 42 U.S.C. § 6925 and RSMo. § 260.390.1(1)(2000). The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. The State of Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

Feeler Lumber Company owns and operates a chemical wood treatment facility at Highway 63 South, located in Vienna, Missouri and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15). Respondent notified in 1991 as a conditionally exempt small quantity generator of hazardous waste. The Respondent's facility was assigned EPA identification number MOD 985799121. Hazardous waste generated by Respondent includes drippage of pentachlorophenol (PCP) during the wood treating process (F032 waste).

Pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and RSMo § 260.390.1(1)(2000), it is a violation of RCRA to operate a treatment, storage or disposal facility without a permit. At the time of the October 25, 2000, RCRA Compliance Evaluation and Sampling Inspection at Respondent's facility, EPA observed PCP contamination on the ground in the area northeast of the building and PCP contaminated ash in an on-site stove. The ash resulted from the burning of PCP residues and personal protective equipment (PPE), which are F032 hazardous wastes, and constitutes illegal treatment of F032 hazardous waste. At the time of the October 25, 2000, inspection, Respondent did not have a permit or interim status to operate a hazardous waste treatment, storage or disposal facility.

## APPENDIX I

### SCHEDULE OF DOCUMENT SUBMITTAL

EVENT	DUE DATE
Submit Site Characterization Work Plan with QAPP and HASP to EPA	Within thirty (30) calendar days from the effective date of the Expedited Settlement.
Submit Site Characterization Report to EPA	Within 120 calendar days of EPA approval of the Site Characterization Work Plan and QAPP.
Submit Clean-up Action Work Plan with QAPP and HASP to EPA	Within thirty (30) calendar days of receipt of a notice that EPA has selected a clean-up action or actions for the Site.
Submit Clean-up Action Report to EPA	Within sixty (60) days of completion of the clean-up activities at the site.



**APPENDIX II**  
**STATEMENT OF WORK FOR**  
**SITE CHARACTERIZATION**  
**AT**  
**FEELER LUMBER COMPANY**  
**VIENNA, MISSOURI**

**Site Characterization Work Plan and Report**

Respondent shall submit a Site Characterization Work Plan for EPA review and approval, in accordance with the schedule in Appendix I. The purpose of the Site Characterization Work Plan is to define the extent of contamination of soil, groundwater and surface water by the wood treating operations at the Site. The Site Characterization Work Plan shall include provisions for systematically sampling the entire Site, with specific attention to those areas where surface and subsurface (e.g. soil, surface water and groundwater) contamination is likely to be found based on past practices at the facility. This characterization of the Site shall also include a characterization of the Site's geology, including but not limited to the direction of slope of bedrock at the Site. This Work Plan shall also detail Respondent's schedule for implementation. Upon approval by EPA, Respondent shall implement the approved Work Plan, in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Site Characterization Report, in accordance with the schedule in Appendix I. The Site Characterization Report shall also include proposed clean-up options (actions), performance standards and clean-up levels for the Site.

**Clean-up Action Work Plan and Report**

Following review and approval of the Site Characterization Report, EPA will evaluate and select an appropriate cleanup action or actions for this Site, and notify Respondent thereof. Within 30 days of receipt of any such notice, Respondent shall submit a Clean-up Action Work Plan for EPA review and approval. The purpose of the Clean-up Action Work Plan is to establish the goals and methodology for clean-up of the contamination present at the Site. The Clean-up Action Work Plan shall describe procedures for conducting the clean-up action(s) selected by EPA. This plan shall include any performance standards and cleanup levels as specified by EPA in its notification to Respondent and shall detail Respondent's schedule for implementation. Upon approval by EPA, Respondent shall implement the approved Work Plan in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Clean-up Action Final Report, in accordance with the schedule in Appendix I.

**Compliance with Quality Assurance Requirements**

Each Work Plan (described above) shall include a Quality Assurance Project Plan ("QAPP"), for EPA review and approval, addressing quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations" (EPA QA/R-5 (March 2001)), as well as other such applicable

guidance identified by EPA. Each QAPP shall describe the sampling procedures that will be used, shall describe the proposed sample locations, and shall ensure that samples are collected and analyzed using EPA-approved protocols. In addition, each QAPP shall describe the number and type of samples to be collected, the method(s) of collection and analysis, and criteria for determining sampling locations.

### **Compliance with OSHA Requirements**

Each Work Plan (described above) shall be accompanied by a Health and Safety Plan ("HASP") to be implemented during field activities at the Site. The HASP shall be consistent with applicable Occupational Safety and Health Administration (OSHA) regulations.

### **Implementation**

Following EPA approval of each Work Plan, Respondent shall implement the Work Plan in accordance with the schedules contained therein.

### **Enforceability**

Each EPA-approved Work Plan and submittal shall become an enforceable part of this Expedited Settlement.

### **Laboratory Practices**

Samples analyzed pursuant to this Expedited Settlement shall be analyzed by a laboratory which participates in a quality assurance/quality control program equivalent to that specified in the most recent versions of the documents entitled "USEPA Contract Laboratory Program Statement of Work for Organic Analysis" and "USEPA Contract Laboratory Program Statement of Work for Inorganic Analysis" (hereinafter "Contract Lab Statements of Work").

Sample collection and analysis shall be performed in compliance with EPA-approved methods, including timing of analysis (holding times), documentation of sample collection, handling and analysis, as described in the Contract Lab Statements of Work.

Laboratory deliverables for all analytical work performed pursuant to this Expedited Settlement, as specified in the Contract Lab Statements of Work, shall be submitted to EPA in accordance with the Work Plans approved herein. Any deviations from the procedures and methods set forth in these documents must be approved in writing by EPA prior to use.

Respondent shall use the quality assurance, quality control, and chain of custody procedures specified in the Quality Assurance Project Plan(s) as approved by EPA for all sample collection and analysis performed pursuant to this Expedited Settlement.

If required by EPA, laboratories analyzing samples pursuant to this Expedited Settlement shall perform, at Respondent's expense, analyses of performance evaluation samples provided by EPA to test the quality of each such laboratory's analytical capabilities.

Respondent shall ensure that EPA representatives are allowed access, for auditing purposes, to all laboratories and laboratory personnel utilized by Respondent for sample collection and analysis and other field work.

### **Submittals**

Respondent shall submit documents (i.e., work plans, QAPPs, HASPs, and reports) to EPA for review and approval in accordance with the schedule in Appendix I. EPA will review such documents and will notify Respondent, in writing, as to its approval or disapproval thereof. In the event of EPA's disapproval of a document, Respondent shall amend the document in accordance with EPA's comments or as otherwise agreed upon by EPA, and shall submit the amended document to EPA within fifteen (15) days of receipt of EPA's disapproval. EPA may, in whole or in part, (1) accept and approve the document, (2) accept and approve it subject to conditions, (3) modify it or require its modification by Respondent, or (4) disapprove it and generate its own document, or utilize any combination of these four alternatives.

### **Additional Work**

During the course of the work performed pursuant to this Expedited Settlement, EPA may determine that sampling, analysis, reporting or other tasks, in addition to those specifically set forth herein, are necessary to satisfy the purposes of this Expedited Settlement. If EPA so determines, it will advise Respondent in writing of the nature of the additional tasks and the basis for EPA's determination. Respondent shall undertake, perform and complete all such additional tasks and provide such documents and reports required by EPA in addition to those provided for herein. The additional work shall be completed in accordance with standards, specifications, and schedules determined or approved by EPA.

### **Project Managers**

EPA and Respondent will each designate a Project Manager for the work to be conducted under this Expedited Settlement. Unless otherwise specified elsewhere, to the maximum extent possible, all notices, reports and other documentary submissions to be exchanged by the parties shall be directed through the parties' respective Project Managers. EPA's Project Manager is:

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008 of RCRA and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

William A. Spratlin  
William A. Spratlin  
Director  
Air, RCRA and Toxics Division

Date: 3/28/03

Leslie Humphrey  
Leslie Humphrey  
Associate Regional Counsel

Date: March 24, 2003

APPROVED BY RESPONDENT:

Name (print): Keith Feeler

Title (print): PRESIDENT

Signature: [Signature]

IT IS SO ORDERED:

Robert Patrick  
Robert Patrick  
Regional Judicial Officer

Date: March 31, 2003

IN THE MATTER OF Feeler Lumber Company, Respondent  
Docket No. RCRA-07-2001-0012

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited RCRA Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Leslie Humphrey  
Associate Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Stephen W. Daniels  
610 North Olive Street  
Rolla, Missouri 65401

Dated: April 1, 2003

Debby White For  
Kathy Robinson  
Regional Hearing Clerk

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PS Form 3800, April 2002	
See Reverse for Instructions	